THE PROHIBITORY LIQUOR LAW.

of the prope against Philip Barverick, where

h he had been convicted was null and void, as being astitutional; and also because the proceedings which he had been convicted were informal and

qual effect in this regard with a certiorari—thoy had no sch right. It the warront is regular on its face, it is rimm face's sufficient to justify imprisonment. Judge Strong—In that case, the coly allegation was not some of the provisions of the statute were unconditutional, or that there were irregularities in the providings. But here they go further, to the very foundation of the case. They contend here that there is no ariselation at all. Counsel—co they did to that case. They said that he law was unconstitutional and void.
Judge Strong—Jung Mason dud not go that length. Counsel—He says no hing about the unconstitutional usedion at all, but he takes up the other point and ays, that if there is colorable authority to arrest the essee, the court will not look at the regularity of the recoescings.

r; and if they choose to transcend that power, it is as if any other person took upon them to enact unsel wished to be understood as not objecting to ight of the prisoner to be tried, but only as objects his right of the prisoner to be tried, but only as objects his right of the case of 5 Hilb, 167-68, which bolds the court cannot look behind the warrant and the sit is any case whatever, and that if there was able authority for bolding the prisoner, the court id not undertase to decide on the real lawful authority for bolding the prisoner, the court id not undertase to decide on the real lawful authority of the control of the control of the ventured to say, that when proceedings of kind were commenced, when the officer made a real and presented the warrant, that the prisoner is a facie suppose the be in lawful cuts oby, and the prougs are all oresumed to be regular. Under a writ beas corpus or certiforari, a man is to be discovered on the ground that he is declaimed upon unlawful callings, aside from the fact that the law is a uncontreval. It seemed becausary in this discousion to ck and see what authority the Legislature had, and their in passing this law not prohibitory, but marre-eventing the sale of diquous as a beverage—they considered their rights and powers. The people sourrendered their rights and powers, the people sourrendered their rights and powers. The people sourrendered their rights and powers is unafficient as dearly marked as those of the legislature in the control of the lagislature in the second of the constitution of the lagislature in the second of the constitution of the lagislature in the second of the constitution. The observation of the lagislature in the second of the lagislature in the second of the constitution. The observation of the lagislature in the second of the lagislature in the sec

ogs Sucrey—They have not the right to pass des-tiave, unsel-Well, I do not say they have, because the litution guarantees that this shall be a republican rement, but where the constitution is shoot, then each retate has returned States. The constitution of this et by the United States. The constitution of tate of New York, of 1846, says that such parts of rommon law and of the states in force in the sai time as are not affected by the constitution, be the law, subject to the right of the logislature ar, amend, repraisand very the same ge Brown—That merely referred to certain legis-ly rules which existed at that time. It does not the question of constitutional power on the part Logislature

lative rules which existed at that time. It does not touch the question of constitutional power on the part of the Legislature.

Counsel supposed that it did, and imake such argument. He contended that the people of the State of New York had surrendered their rights to the Legislature just as the people of the United States. He did not not the government of the United States. That question had been discussed by the courts and in elementary writings. Rest (2d vol., page 449) says "that the primple of the English government that partitioned in the continuous continuous continuous that the primple of the English government that partitioned in the continuous continuous and the season of the continuous continuous and the season of the continuous continuous as also do sing from the sovereign power in any other government. See But where there is a written constitution, as not of the legislature may be vold as against the constitution. Went lays down the rule that the legislature power a just as component as the parliament of Great Britain to, except where it is bound of by the constitution. Counsel proceeded to argue that wherever legislative acts do not interfere with the constitution of counsel proceeded to argue that wherever legislative acts do not interfere with the constitution or with any of the inalienable rights of man they abould be australized, and he quoted 20 Wesdall 381, lat Hull 379, 18 Peter 420. The act in question was nothing more nor less than a police law, as in the case reported in 5 Howard, the judges declared the law in that case to be.

Judge Strong—The act passed upon in that case was simply a regulation and not an entire prohibition.

Counsel—In this case there as not an entire prohibition.

Jurge Strong—The set passed upon in that case was simply a regulation and not an entere prohibition.

Counsel—In this case there as not an entire prohibition.

Judge Strong—Has the court of the United States ever peased upon an act prohibiting sale?

Counsel—Bo; the question was never before them encept to far as this: In the State of Rhode island an act was passed similar to our act in 1845, that every town might for itself decide whether there should be any licenses greated. In the town of Camberland it was voided that there should be no license. A person n that town bought the liquor after the act was passed, which was the occasion of the suit. That case came up and it was excited that that law was constitutional so far as the United States was concerned.

Judge Strong—Lid the act prohibit the sale of liquors entirely, or did it only refer to license?

Counsel—It regulated it by license, but in the town in question they voted there should be no license. It was a virtual probibition. In New Hampshire the act prohibited the sale entirely, except it was sold a quantities of twenty-eight gallons, and that was decided to be constitutional. Therefore, so long as the Legislature does not vicrate any or the inalienable rights of man or any of the provisions of the constitution, they have a right to pass such a law as the present, and the only way of setting rid of this law is by electing a Legislature to repail the virtue of the constitution, best-tes the one which we have just discussed, that the mere fact of a prohibitory has volates some of the rights of man or half of the weather than the present that it is lightly to the virtue of the provision of the constitution, best-tes the new which we have just discussed, that the mere fact of a prohibitory has volates some of the rights of man? They say that it is linguit deprive a person of a trial by jury in any manner, also that it is lightly to the will have been any the trial by its jurors.

Counsel—There is no idoues about it. We say that the Judge strong—Then you

tried, and that after that all the subsequent proceedings are void.

Judge Strong.—The only question now is whether th's man is lawfully held; and it it appears that the proceedings were null and void, of course he must be discharged.

Counsel—I emprose that if the error was committed after his arrest, that does not vittate the proceedings up to that time. Counsel then proceeded to discuss the question of the prisoner's request to be tried by a jury. The sixth section of the first article of the present constitution or the State of New York provides that "no person shall be held to answer for a capital or other constitution or me " unless are present ment or tubletter and of Grand Jury." They may, however, that by this law a person is deprived of the right to give held and appear before the Grand Jury. The answer to that is to that if it be not an inframeurs crime, there is section; in the constitution or is common law, when a sequince that a man abould have that privilege.

At all, therefore, turns upon the gracing—what's an

in 5th Howard goes the whole length of snataining a probibitory law, so as it does not extend to imported highors.

Mr. Thempson next addressed the Court on behalf of the prople. He reviewed the pretiminary proceedings in the case. He supposed there were only two questions presented for the consideration of the Court: whether the proceedings were according to law, and wasthes the law was constitutional and vail? The counsel for the accused intended, he understood, to make a third question, which is, that this charge is no infringement of the provisions of the first section. It is no light thing, he thought, for a Court to prosounce the solemn act of the legislature of the State unconstitutional and nail. If this Court make such a declision, it will throw open the floodgates of this traffic wide and unrestricted for the next vix months. It is not for counsel nor for the Court to ray whether they would have advised the passage of this tawn. The simple question for the Court is, whicher the law vicilates any provision of the coastitution. He held, in the first place, that all the proceedings in this case were in strict accordance with in-law, and proceeded to argue the regularity of these proceedings in this case were in strict accordance with in-law, and proceeded to argue the regularity of these proceedings in this case were in strict accordance with in-law, and proceeded to argue the regularity of these proceedings in this case were in strict accordance with in-law, and proceeded to argue the regularity of these proceedings in this case were in strict accordance with in-law, and proceeded to argue the regularity of these proceedings in this case were in strict accordance with in-law, and proceeded to argue the regularity of these proceedings in this case were in strict accordance with in-law, and proceeded to argue the warrant to make a distinct averment that the trial had before him was lead. He is elected to preside at Court of Special ressions, and performs such other duties as shall be required of him by la

which it stands now.

Coursel—Your Sonor may have been behind the scenes—(laughter)—I co not know If that is so it would give ground to the report that the enamies, not the friends of the bill, had its final drawing up. The next question he would discuss was, is this a valid law. He would say that the Legislature had all power to pass laws not prohibited by the State or the federal constitution.

Judge Strong—You do not mean to say that they would have a right to prevent the growing of ladian lollows:—Glows:

Judge Etrong—You do not mean to say that they would have a right to prevent the growing of Iadian core because it might be manufactured into whisksy? (Laughter.)

Counsel resumed his argument, that the Legislature had a right to pass this law. It would require some of the 'hard cider' from the rural districts to inspire the judglesty to irquire, act only into the constitutionality of the law, but also to go behind the scenes and inquire into the motives of the Legislature. (Laughter.)

Judge Strong suggested that where legislative authorities deslared that certain fraits or meats were untersitive, and that their sale should be limited, they had a right to do so, but they had not a right to prohibit it allegeber.

Counsel inquired whether, if the Common Council were curvinced of the fact that pinesppies were celeterious to the health of the community, they had not a right to prohibit their sale?

Judge Brown—Meats or froits in process of decay are nuisances, but bottles of good champages or brandy are not (Isughter); they may stand in your house for years and do no harm, if you let them alone. (Recewed laughter.)

Jucke Brown-Meat or froits in process of decay are nuisances, but bottles of good champages or brandy are not (laughter); they may stand in your house for years and do no harm, if you let them alone. (Recewed iaughter)

Counsel—Neither will rotten fruits or meats, if you let them alone.

Jucge Strong—Oh, yes; they would affect the atmosphere (laughter).

Counsel—It has been the policy of the Legislature of this State for many years past to prohibit the use of liquors.

Jucge Strong—The abuse of it, not the use of it; they have never before interfered with the use. I believe there is a great difference between the regulation of a thing and the abactuse prohibition of it. The power of the Legislature, I believe, extends to regulating this matter; but when they attempt the total suppression of the rale of any artics which is used for beverage or food, they outstrip their powers.

Counsel—It is only restrained and limited, but not probibited. The Supreme Court of the United States lave at all events decoded the question in the New Hampelite case. where Judge Taney said that there was no rauthorize too the same principle as the desiruous of dogs for the sake of public security is authorized.

Judge Strong—That question does not come up.

Counsel—It may be said that part of the punnshment in the castruction of the inquor. What differences there in principle that a man, having been tried and convicted of an offence, must submit to a fine of \$100, or have the property by which the offence was committed conficated in the exercetion of the inquor. What differences there in principle of restriction and prohibition is really the strong—That question does not come up.

Counsel—It may be said that part of the punnshment in the castruction of the liquor. What differences there is principle of restriction and prohibition is really the authorized.

Judge Strong—That suppose there is no trial, could not the liquor be described by the suppose there is no trial, could not be legislation of the old, or have the principle of restric

was not invaluated on account of other unconstitu-tional provisions.

The Court did not require any argument on that point.

Counsel would then proceed to discuss the points sug-gested by Judge Brown as to the irregularity or the pri-mary proceedings. One of the exceptions is, that the liquer may have been imported. West, that is a marter of cetrue, not of complaint. Another sucception is, that the argued may have been the importer. Dust plee is a

The Last Broadshie Into the Liquor Law Decision in the Case of Smith & Dowd.

indical indicating figure (except as hereicalizer policies in intolicating figure (except as hereicalizer principal in the process of medicine as a but intent to be given away (except as a medicine by physicians pursuing the process of medicine as a but intent of the process of medicine as a but intent of the process of medicine as a but intent of the process of medicine as a but intent of the process of the

Liquor Proscentions-The Alliance Again in

pefore the court without delay.
In behalf of the New Yors City Temperance Alliance,

C. J. WARREN, Corree'g Secretary.

MESSRS. COLEMAN AND STATEON'S REPLY.

ASTOR HOUSE, New York, July 11, 1855.

MR. C. J. WARREN—Sir—in reply to your letter of this date, we have only to say that we are acting under the opinion of eminent jurists, who believe the law which authorises the seizure and destruction of our property to be unconstitutional.

Confiding in the wisdom and justice of our judicial tribunals, and prepared as law abising citizens to conform to their decision of this question, we do not feel called upon to depart from the course we adopted when replying to your former proposition. Very respectfully, &c.,

COLEMAN & STECSON.

The Law in Brooklyn.

REIZURE OF LIQUOR.

Yesterday, officer Matthews, of the Mayor's office, made a seizure of several bottles of spiritous liquors at the asicon of Thomas Toynbee, Montague place, on a search and seizure warrant, issued by Judge Culver, of the City Court. It is understood by all the parties interested that no technical objections will be raised, but that the care will be brought before the General Term of the Susrame Court, now in assign for decisions as that the case will be brought before the General Term of the Supreme Court, now in session, for decisions as to the constitutionality of the prohibitory liquor law. The defendant was brought before Justice Smith, of the Court of Special Sensers, and held to be all to appear this (Wednesday) morning to answer. The case will be carried to the Supreme Court as soon as practicable, and a speedy decision may therefore be expected.

VETO OF A RESOLUTION OF INFORMATION BY THE MAYOR.

and a speedy decision may therefore be expected.

VETO OF A BESOLUTION OF INFORMATION BY THE
MAYON.

At a regular meeting of the Brooklyn Common Council on Monday week last, a resolution was offered by
Alderman Feli and passed, directing the Counsellor of
the city to give his opinion. Int As to the counting
tionslisty of the act for the prevention of intemperace,
pauperiam and crime. 2d. Whether the city will be
lishle for demages by reason of the acts of its executive
comers, aboutd they undertake to enforce the same
according to its provisions, if atterwards the law should
be declared uncers struttonal.

At the last meeting of the Board, Mayor Hall sent in
the reclution without his, signature, and gave his
reasons as follows:—

"In the month of May last, I procured an opinion
from the Councellor of the city, which was published,
in which he states that no new power, by the act referred to, was conferred upon me as one of the officers
of the city. Arrangements are now in progress to take
the opinion and decision of the Supreme Court
upon all the quartions propounded in the
resolution, and these questions will probably
be signed before the Court and a decision thereon
had during the present week. I do not deem it necessary
or proper, at the present time, to embarrass the proceedings of the Counsellor in the case so to be argued,
by requiring his opinion upon a subject in which, by
the charter of the city, he is not called upon to act, and
I do not perceive by the terms of the act, that the city is
his nay way called upon or required to discharge any duty
under the act I am satisfact, from my personal observations, that the necessary actual engagements of the
Counse llor, in makenes of the city, recludes him from
giving his opinion in time to meet the requirements of
the resolution. Se fars as professional epinions are concermed, the public have already been fiscaded with them
on both sides of the question. For the satisfaction of
the Commen Council, however, I now state that whatever proceedings I ins

Mayor to vote a resolution of inquiry, and eventually the matter was laid over under the rule.

MYONIGATION.

Yesterday morning's police returns show the total number of arrests for the preceding twenty four hours to have been twenty four. The cases were all brought before the justices, and muleted in the usual time of \$10, or sent to jail for ten days.

The case of Thomas Berry and William Schutzer, the case of Thomas Berry and William Schutzer, charged with selling liquer, was called up before Justice Jacobs, yesterday; but the Justice not being ready to refer his decision as to his authority to act in criminal matters, the case was again adjouract till Monday next.

William Coffee, George Baker and Fredrick Reeman, were brought before Justice Jacobs, yesterday, on the charge of being drunk. They were fined \$10 each.

ration and discussion.

It is understood that the Court will consider no case referred to it by Congress unless the claimant present it with a printed potition under the rules. The re-olution of reference to the Court only gives jurisdiction. The claimant must present his formal petition and have it do:keted, before his case will be considered before the Court. Claimants should note this fact.

Thestres and Exhibitions.

Broadway Theatres — Mr. and Mrs. Barney Williams are to appear this evaning is three of their most popular preces, being the last night but three of their engagement. The forama of "Ireland and America" will commence the amusements. The popular farce of "Barney the Baron" will fellow and the comedicts of "Yambee Courtebip" will fellow and the comedicts of "Yambee Courtebip" will remine te all. Those who haven't reen Mr. and Mrs. Williams have an excellent epportunity afforced them this evening.

Bowray Theatre.—Mr. W. R. Goodall is to take his benefit this evening. The pieces selected are "The Drunkard," "Tom and Jerry" and "Widow's Victim," is all of which Mr. Goodall will appear, supported by the en ire strength of the company. Such an attractive bill cannot fail in ensuring a fail atter dance.

Ninio's Gardan.—The new comits opera entitled "A Queen of a lay!" is to be repeated again to night by the Pyne and Hyriccia English Dyra Trouge in which Miss Pyne will introduce her celebrated song of "Toe Skylish." Mr. Burton and his company will appear in the "Gerious Family" and "The Toodles" on Thursday evening.

Woon's Minstrails.—This company continue to draw full houses. To-night they are to repeat the new piece of "Park Deeds," together with the usual negro performances.

Pirkham's Concert Rooms.—The Alleghanians will give another of their pleasing concerts this evening.

Mr. And Mus. Allen.—These very telented artists are in town, after fulfilling a successful engagement in the West.

The Benefit of Mr. Cook will come off on Wednesday next at the Bowers theatre. He is a vary dear.

Amar da Jane Detroit Faray Whitter Jane, Supert; Caladonia, H & Creeby, Damark Barks Martha An side of Sunday, and Housding hillow on Saturday.

B 1.11 MCRE—Arr July 16 bris Stephen O Sass, Windowsker, Window, NS; schre Harmonia, Wheelor de; Kales Helbrook, Dig, do; K-lon, Suthews, Eastport Old essamily Jackson, Jostick, NY ork; ship Ocean (Strem) Gatlon, obast (Sr. Halifas), Svince Joseph German, Joseph Garton, Joseph Garton, Joseph Garton, Joseph Garton, Joseph Garton, Joseph Garton, State Hapkins, New port; Mary A Rowland, Conch., Jow Savon; Bangonett, Halifas, Warsiana, Goodh, Jow Savon; Bangonett, Halifas, Harifas M. States and Joseph Garton, Martingan, Janes Garton, Janes Garton

commence the ansurement. The popu or fracts of "Barcary the Baron" will follow and the conscient of "Varcary the Baron" will follow and the conscient of "Varcary the Baron" will follow and the conscient of "Varcary the Baron" will follow and the conscient of "Varcary the Baron" will follow and the conscient of "Varcary the Baron" will follow and the conscient of "Varcary the Baron" will follow and the conscient of "Varcary the will be a service of the conscient of the conscient of the conscient of the company of the conscient of the company of the conscient of the live breath the average. The pieces soliced are "I be a service of the company of the conscient of the company of the company of the conscient of the conscient of the conscient of the company of the conscient of the